



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CCB/173593

PRELIMINARY RECITALS

Pursuant to a petition filed April 11, 2016, under Wis. Admin. Code, §HA 3.03(4), to review a decision by Milwaukee Enrollment Services to discontinue child care assistance, a hearing was held on May 4, 2016, at Milwaukee, Wisconsin, with the judge appearing by telephone.

The issue for determination is whether petitioner's 18-year-old daughter remains in the child care assistance unit while still in high school.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner's Representative:

Atty. [REDACTED]
Legal Action of Wisconsin, Inc.

[REDACTED]
[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, Wisconsin 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W. Vliet Street
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner receives child care assistance in a household that includes her three children. Petitioner's oldest daughter turned age 18 on April 2, 2016; she is in high school expecting to graduate this June.

3. The agency processed a six-month report form in early April, 2016. Based upon petitioner's monthly income the agency determined that petitioner would remain eligible for child care for a four-person household, but would be over the limit for a three-person household. By a notice dated April 6, 2016, the agency informed petitioner that child care would end May 1, 2016 because income was over the limit for a three-person household. The state's computer system automatically removed petitioner's daughter from the household when she turned 18.
4. Benefit were continued pending this decision.

DISCUSSION

A parent is eligible for child care services if she needs the care to attend Wisconsin Works (W-2) approved school, to work, or to participate in W-2 activities. Wis. Stat., §49.155(1m)(a); Wisconsin Shares Child Care Subsidy Policy Manual, §1.4.8. The agency must utilize gross income, and for an ongoing case, the income limit for a family is 200% of the federal poverty limit. Wis. Stat., §49.155(1m)(c); Child Care Manual, §§1.5.1 and 1.5.1.2.

The Wisconsin Administrative Code, §DCF 201.02(10), in reference to child care assistance, defines "family" as having the same meaning as "Wisconsin works [W-2] group" as defined in Wis. Stat., §49.141(1)(s). That statutory section defines a W-2 group to be the custodial parent and all dependent children of the parent. A "dependent child" is defined at Wis. Stat., §49.141(1)(c) as a child under age 18, and also an 18-year-old if she is a full-time student in secondary education and reasonably expected to graduate before age 19.

Under those definitions, petitioner's 18-year-old daughter remains in the household for determining income eligibility. Furthermore, the Child Care Manual, §1.2 defines "Dependent Child" as "A person who resides with a parent and who is under the age of 18 or, if the person is a full time student at a secondary school or a vocational or technical equivalent and is reasonably expected to complete the program before attaining the age of 19, is under the age of 19." The Manual, §1.4.1, defines assistance group to include dependent children.

Therefore, the agency erred by removing petitioner's daughter from the household when she turned 18. I would recommend that the Department review how such situations are handled in the state computer system.

CONCLUSIONS OF LAW

Petitioner's daughter should not have been removed from her child care assistance group when she turned 18 because she remained a full-time high school student expected to graduate before age 19.

THEREFORE, it is

ORDERED

That the matter be remanded to the agency with instructions to continue petitioner's child care eligibility based upon a four-person household until the household size is required to be reduced. The agency shall do so within 10 days of this decision if it has not already done so.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 6th day of May, 2016

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 6, 2016.

Milwaukee Enrollment Services

Child Care Benefits

Attorney [REDACTED]